## REMARKS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 2-44 are currently pending and under consideration in the present application, claims 12-13 and 17-42 of which are withdrawn from consideration.

This response is believed to place the application in condition for allowance, and entry therefore is respectfully requested. In the alternative, entry of this response is requested as placing the application in better condition for appeal by, at least, reducing the number of issues outstanding.

Entry of Amendment under 37 C.F.R. § 1.116

The Applicant requests entry of this Rule 116 Response because the response does not alter the scope of the claims and places the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures (M.P.E.P.) sets forth in Section 714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, Section 714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The M.P.E.P. further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

### I. Rejection under 35 U.S.C. § 103

In the Office Action, at pages 2-5, claims 2-7, 10-11, 14-16, and 43-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Akasaka et al. (U.S. Patent No. 6,292,288) in view of Muro et al. (U.S. Patent No. 6,823,107).

In the Office Action, at pages 5-6, claims 8-9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Akasaka et al. and Muro et al. in view of Sobe (U.S. Patent Application Pub. No. 2003/0117694).

Muro et al. appears to qualify as prior art only under 35 U.S.C. §102(e). In addition, it is noted that Muro et al. was commonly owned with the instant application at the time the invention of the instant application was made. Under 35 U.S.C. §103(c), "[s]ubject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject

matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." MPEP 2146, EXAMINATION GUIDELINES FOR 35 U.S.C. 102(E), AS AMENDED BY THE AMERICAN INVENTORS PROTECTION ACT OF 1999, AND FURTHER AMENDED BY THE INTELLECTUAL PROPERTY AND HIGH TECHNOLOGY TECHNICAL AMENDMENTS ACT OF 2002, AND 35 U.S.C. 102(G), 1266 OG 77 (January 14, 2003). As such, it is respectfully submitted that Muro et al. is not available as prior art for use in an obviousness rejection under 35 U.S.C. §103.

Accordingly, withdrawal of the § 103(a) rejection of claims 2-11, 14-16, and 43-44 is respectfully requested and it is submitted that claims 2-11, 14-16, and 43-44 are in a condition suitable for allowance.

**CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 10-7-08

By: _____

Aaron C. Walker
Registration No. 59,921

1201 New York Avenue, N.W., Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501